

REMARKS

Claims 24-26, 28-37, 79-82, 85-95, 99-103, 107-110, 112-118, 122-124, 127-129, 135, 139-140 and 142-143 were examined in the Outstanding Final Office Action. Applicants note with appreciation that claims 24-26, 28-37, 112-117, 142 and 143 were allowed and claims 81, 82 and 123-124 were indicated to be allowable if rewritten in independent claim format.

By virtue of this paper, claims 79, 82, 102, 109, 122, 124 and 143 are sought to be amended and claims 80, 81, 118 and 123 are sought to be canceled. The amendments and cancellations are believed not to introduce new matter and their entry is respectfully requested. The amendments and cancellations are made without prejudice or disclaimer.

Claims 24-26, 28-37, 79, 82, 85-95, 99-103, 107-110, 112-117, 122, 124, 127-129, 135, 139-140 and 142-143 are thus respectfully presented for consideration further in view of the below remarks.

Rejections Under 35 U.S.C. § 102

Claims 79-80, 85-91, 95, 99-103, 107-109, 118, 122, 127-129, 135, 139 and 140 were rejected under 35 U.S.C. § 102(e) as being anticipated by Gupta (U.S. Patent No.: 6,278,714).

Without acquiescing to any of the Examiner's assertions, Applicants respectfully traverse at least with respect to independent claims 95, 103 and 135.

It is first noted that a claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Furthermore, the Office is permitted to give each term in the claim its broadest **reasonable** construction **consistent with the specification**. *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005). The construction should be "in light of the

specification as it would be interpreted by one of ordinary skill in the art." In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004).

For example, previously presented claim 95 is related to "... the setting up of virtual circuits **between a first ATM switch and a second ATM switch**, said virtual circuits being set up **on a ATM network**..." (**Emphasis Added**). Though this language is from the preamble of claim 95, it is respectfully pointed out that the body of the claim inherently supports this feature and thus the Patent Office is not permitted to ignore this limitation, at least as far as analysis under 35 U.S.C. § 102 is concerned.

The Examiner relies on, among other portions, the disclosures associated with Fig. 4 and Fig. 14 of Gupta. It is respectfully pointed out that the disclosure there pertains to communication **between user and a node of a network** (U1 and node A).

It is now asserted that user A of Gupta cannot be equated to the claimed ATM switch based on the express disclosure of Gupta, reproduced below for the convenience of the Examiner:

FIG. 1 is a block diagram showing an exemplary network useful in carrying out the invention. The network shown is comprised of nodes A through J, ***each node being capable of routing digital data from users*** connected to the node or from other nodes connected to the node through to a destination. For example, when user U1, which is connected to node A, desires to connect to user U2, connected to node J, ***the user will request a connection from node A to node J as discussed more hereinafter***. In one implementation, node A will do a calculation of a proposed route through the network from user U1 to user U2. In the example shown, node A proposes a route from user 1 through node A, to node C, to node F, to node H, to node J, to user U2. Different types of networks have different types of routing mechanisms. In the example shown in FIG. 1, the invention will be described with reference to ***an ATM network where each of the nodes constitutes an ATM switch***. The principles of the invention, however, are applicable to general networks without restriction to the type of switching technology. (Col. 4 line 54 to Col. 5 line 5 of Gupta, **Emphasis Added**)

Thus, in Figure 1 of Gupta, only nodes A-J, but **not** users U1 and U2, can be equated to ATM switch. Accordingly, the teachings with respect to segments (U1 and A) and (U2 and J) of Figure of Gupta **cannot** be the basis for anticipation of claim 95.

Therefore, it would be impermissible for the PTO to equate connections as sought to be extended based on Figures 4 and 14 of Gupta with the claimed connections between two ATM switches in accordance with claim 85.

Furthermore, contrary to the assertions of the Examiner, it is the Applicants' position that the acts caused in nodes A-J of Figure 1 due to the operation of the concepts of Figures 4 and 14 of Gupta would not cause the claimed "provisioning in said device fewer than said plurality of virtual circuits to said second ATM switch" (**Emphasis Added**).

It is particularly asserted that the connections between nodes A and J of Gupta would not operate in a way to anticipate or render obvious the claimed feature of provisioning fewer than the requested number of circuits.

In that regard, the Examiner had stated:

The examiner respectfully disagrees with the applicant's argument which cites "A Short Introduction to ATM concepts" written by Krupick which defines provisioning occurring when tables are setup between switches means that Gupta also has provisioned the virtual circuits when the tables have been set up. ***Applicant has failed to cite specific paragraphs in Gupta which define provisioning as being complete upon setting up of tables.*** It should also be noted that Gupta specifically states "no traffic is passed but virtual circuits are defined" per col. 8 lines 45 to 49. Gupta goes on to say that no traffic is passed until QoS is also processed; therefore, the examiner asserts that provisioning has not been completely performed until QoS is evaluated and traffic is passed; therefore, examiner asserts applicant's argument is not persuasive that Gupta teaches: "all virtual circuits in the requested bunch are provisioned" since provisioning entailed setting up of the tables in the switches in the path because traffic is not passed until QoS has been evaluated which the examiner asserts is a part of the provisioning process. (Page 13, lines 2-32 of the Outstanding Final Office Action, ***Emphasis Added***)

The Examiner is first thanked for the detailed explanation, which helps advance prosecution. However, the undersigned representative is unclear on specific portion of Gupta based on which the Examiner asserts that "Gupta goes on to say that no traffic is passed until QoS is also processed;". If the Examiner maintains the rejection after the below remarks, it is respectfully requested that the specific portion of Gupta teaching the Examiner's assertion be pointed.

As to the requested specific paragraphs, Applicants reproduce portions of Gupta:

Returning to FIG. 8B, column 1 of FIG. 8B shows an allocation of incoming ports and virtual circuits of switch 1 which correspond to the virtual circuit bunch VCB3 and its subsets VCB 3A and VCB 3B and VCB 3C. **When a new user at switch 1 has traffic for a destination at switch 4, switch 1 will assign the user to a VC in VCB 3A which goes to switch 4. The assigned VC in VCB 3A will immediately route the traffic to switch 4 without any setup required for virtual circuits between switch 1 and switch 4. They have been preallocated.** At switch 4, the destination address of a cell is used to route the cell to its final destination.
(Col. 9, lines 21-32 of Gupta, **Emphasis Added**)

Thus, Gupta clearly states that there is **no additional setup** required when a new user is sought to be added (according to Figures 4 and 14 relied upon by the Examiner).

Again, it is believed that the switches in Gupta setup (or complete provisioning of) **ALL** of the requested virtual circuits (in a virtual circuit bunch) between the two (ATM) switches at the edge, and then when a new user is to be added, one of the previously provisioned virtual circuit is used.

There is no disclosure or suggestion to the contrary. In fact, the portion relied upon by the Examiner is also consistent with the Applicants' position. The particular portion, which supports this position is again reproduced for the convenience of the Examiner:

In more complex example, one which will be pursued throughout the remainder of the explanation of the invention, is shown in FIG. 7C. Again a packet header 700 and a VCB request field 710 precede the fields specifying the virtual circuit bunch. In the example shown in FIG. 7C, switch 1 is requesting a virtual circuit bunch totaling 25 virtual circuits, 8 of which are destined for switch 4, 8 of which are destined for switch 5, and 8 of which are destined for switch 3. When the control packet illustrated in FIG. 7C is received at switch 2, switch 2 acts strictly as an intermediary to traffic going to switches 3, 4, and 5. This does not need to be the case, but is for purposes of this example. Switch 2 could easily be a destination for some of the virtual circuits. By this request, switch 1 sets up 24 bi-directional virtual circuits to switch 2. Switch 2 sets up 8 outgoing virtual circuits to switch 4, 8 to switch 5 and 8 to switch 3. In a reverse direction, the virtual circuits from switches 3, 4, and 5 are mapped to the 24 virtual circuits set up between switch 1 and switch 2. **When the virtual circuit bunch is set up, no actual traffic is passed, rather the virtual circuits are defined together with their level of service and are available to pass traffic as it is routed to them from circuits**

originating or terminating at the end nodes of the virtual circuit bunch. (Col. 8 lines 27-49 of Gupta, ***Emphasis Added***)

5 In particular, contrary to the Examiner's assertion, it is noted that Gupta expressly teaches that the virtual circuits are defined with their level of services. The term 'available' implies that the circuit is completely provisioned between the two end switches of Gupta, and can be used by any user.

10 For one or more of the foregoing reasons, claim 95 is allowable over Gupta. Previously presented independent claims 103 and 135 are also allowable over Gupta for similar reasons.

15 Claims 99-102 depend from claim 95 and are allowable at least for the reasons noted with respect to claim 95. Claims 107-109 depend from claim 103 and are allowable at least for the reasons noted with respect to claim 95.

The Examiner is accordingly respectfully requested to withdraw the corresponding final rejections and continue examination.

20 ***Allowable Subject Matter***

Currently amended independent claim 79 substantially corresponds to canceled claim 81, in incorporating at least substantially the features of claims 80 and 81. Claim 79 is accordingly believed to be in condition for allowance.

25 Currently amended independent claim 122 substantially corresponds to canceled claim 123, in incorporating at least substantially the features of claim 123. Claim 122 is accordingly believed to be in condition for allowance.

30 The Examiner is respectfully requested to indicate in the next Office Action whether currently amended claims 79 and 122 are in condition for allowance.

Conclusion

Thus all the objections and rejections are believed to be overcome and the application is believed to be in condition for allowance. The Examiner is invited to telephone the undersigned representative at 707.356.4172 if it is believed that an interview might be useful for any reason.

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Respectfully submitted,
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